

JP-PH
JW HR

4/14/72

Dear Larry,

If nothing has broken on this by tomorrow, please let it wait, except for preparing, for five days, for reasons that will become, I hope clear. Clear as I can make it, pooped as I am. There (unknown) reporters present and I stayed away from them. I don't think they could understand what was going on, but if they were sharp, they had all they need to inquire, for first of all the judges weren't asleep and one, quite competently, had done his homework. I find myself wondering about things I'm not going to go into here and now.

Today we had our hearing on the spectro suit in the Federal Court of Appeals for DC. Those assigned included the chief judge, who was absent. This can have none or many meanings. But during the course of the proceedings, one read from the Kleindienst letter I've been trying without success to get everyone interested in, the one in which he says I don't have it and even if I did I wouldn't give it to you cause I can't, and then from Mitchell's, written on the eve of hearing when they could stall no longer, saying I got, I give, and if I think I don't have to, I will. Even with his shoes on this judge was sharp enough to know that one and one ain't 13. Bud understated so much, which was great, that he asked for a memo in five days. First Jim and I talked this over, then we met later with Bud and have agreed on the approach we will take. That will spell the whole thing out, which I have a suspicion will not make that particular judge a bit unhappy. Of course it adds up to just a few consistent things: Kleindienst is a repetitive liar. Mitchell knows it and covers it, and they pass laws by the flick of a typewriter switch. But in any event, Jim will work over the weekend putting it in nice order, telling a fairly full story chronologically, building up to what seemed to surprise the judges, the awarding of a summary judgement. That is one of the less common attributes of a candidate for Attorney General. Jim happened to know about that because he was in on it, Bud being out of town that day I got that.

But did rather well in presenting the case, and it sure seems tough as hell to anticipate the interest of the judge and what they don't want to know. One of them got a but severe with the poor government lawyer, who had little idea of anything other than what he had written out. So, when the judge read from Mitchell's letter saying that there was a similar case in litigation and if that plaintiff won he'd give this stuff to me (no parallels, by the way), and he asked what case, poor bastard didn't know. I did, but saw no reason to volunteer. It was an unsmiling federal attorney who left with us and got on the same elevator. I think it is possible we can prevail, and that a better situation on FOI suits may be one consequence. We are agreed on the possibilities: sent back to same (fink) judge for full hearing, which we accept and probably government does; they order that the spectro be given me, in which even it goes to the Supreme Court, for they dare not; or the government is upheld, in which event we go to the Supreme Court. If it does go to full hearing, we can put on a case and while I haven't mentioned it to my colleagues, who should, once in a while, have the opportunity to catch their breathes, the first witness I recommend is J. Edgar Hoover, for a very simple line of questioning. If they refuse subpoena for him, we use interrogatories, and I don't see how they can refuse with the approach they have taken. But this is the future. The present is that there can now be a good peg for a story that should have been used long ago. Maybe somebody will find a bit of guts. The timing is great, and five days plus will be a bit better. But unless the story is picked up, we would be in a better position to cool it. After the memo is filed in court it becomes a public document. But when it is done Bud or Jim can let Bob have a copy and I can go over it in advance, without seeing it, if you'd like, so you can be ready if you can get the story. If they go for it. And if they do and after it is printed, I will have a question you may want to re-open diplomatic relations to ask the right desk. But this is a new peg, and it does give them both timing and an out, huh? I've got to go to bed. One other thing, a friend will be asking you to get him the court papers Sherman Holmes filed saying that the Institute for Policy Studies, subject of long HUAC and FBI interest and harassment, is a CIA front! I told him how to reach you to ask. If you don't have it, and you may remember I told you of its existence, you may want to borrow a copy the zany will probably lend. If you make copies you don't have to pay for, may as well fatten my file, too. If you don't like this name, try out (for Kleindienst) Richard the Lyin' Hearted. Best,